

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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PUBLIC SERVICE
COMMISSION

In the Matter of:

AN EXAMINATION OF THE)
APPLICATION OF THE FUEL)
ADJUSTMENT CLAUSE OF) **CASE NO. 2005-00497**
LOUISVILLE GAS AND ELECTRIC)
COMPANY FROM MAY 1, 2005)
THROUGH OCTOBER 31, 2005)

**PETITION OF
LOUISVILLE GAS AND ELECTRIC COMPANY
FOR CONFIDENTIAL PROTECTION**

Louisville Gas and Electric Company ("LG&E") petitions the Public Service Commission of Kentucky ("Commission") pursuant to 807 KAR 5:001, Section 7, to grant confidential protection to certain information relating to the coal vendors selected from the responses received to its solicitations for coal during the review period. In support of this Petition, LG&E states as follows:

1. On February 13, 2006, the Commission issued an Order in this proceeding which, among other things, directed LG&E to provide certain information relating to the selection of coal vendors during the period under review. Among the items requested by Item No. 3 of the Commission's Order was confidential information concerning LG&E's contract length, annual tonnage and base price agreements with selected coal vendors.

2. The Kentucky Open Records Act exempts from disclosure certain commercial information. KRS 61.878(1)(c). To qualify for this exemption and, therefore, maintain the confidentiality of the information, a party must establish that disclosure of the commercial information would permit an unfair advantage to competitors of the party seeking confidentiality.

3. LG&E's response to Item No. 3 of the Commission's Order regarding the contract length, annual tonnage and base price agreements it has with selected coal vendors contains

sensitive commercial information, the disclosure of which would unfairly advantage LG&E's competitors for both coal supplies and wholesale power sales. Any impairment of its ability to obtain the most advantageous price possible from coal suppliers will necessarily erode LG&E's competitive position among other electric utilities with whom LG&E competes for new and relocating industrial customers and for off-system sales.

4. Further, disclosure of this information will damage LG&E's competitive position and business interests. The information provided in response to Item No. 3 discloses the terms under which LG&E is willing to contract for coal. This is highly sensitive information that, if made public, would enable future bidders to manipulate the solicitation process to the detriment of LG&E and its ratepayers. Instead of giving its best price and terms in its bid, a coal supplier with knowledge of LG&E's evaluation process and results could adjust its bid to correspond with LG&E's past bidding history on terms and prices. As a result, LG&E will not get the same quality of bids that would be produced by a system protected by the confidentiality employed by unregulated businesses. This is of particular concern in this instance because LG&E is currently engaged in contract negotiations with one of the coal vendors selected during the relevant time period. Any impairment of LG&E's ability to obtain fair prices for its coal supply will either increase the price LG&E and its customers will pay for coal or make its coal supply contracts less reliable, or both. As a result, LG&E will not be able to compete effectively for reasonably priced coal supplies, for new retail load and for off-system sales.

5. This damage is exacerbated by the interstate nature of the competition LG&E faces for the sale of off-system power. Obviously, competitors of LG&E in this market that are located in another state are not subject to the Commission's regulations regarding the filing of coal supply cost information, and some enjoy utility commission-provided confidentiality protection for their coal contracts. To LG&E's knowledge, utilities located in Indiana, Ohio, West Virginia and Pennsylvania are provided some protection for confidential coal supply data.

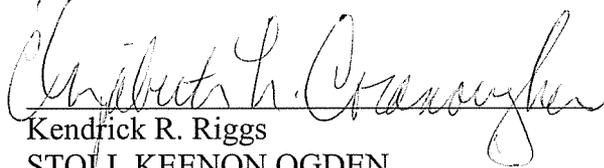
6. The information for which LG&E is seeking confidential treatment is not known outside of LG&E, and it is not disseminated within LG&E except to those employees with a legitimate business need to know and act upon the information.

7. The information for which LG&E seeks confidential protection in this case is similar to that requested by the Commission on December 27, 1993 in Case No. 92-493-B. The Commission granted confidential protection of that information in its Order of November 14, 1995 in Case No. 92-493-B and granted confidential protection to similar information in a number of subsequent fuel clause orders. See e.g., Letter of Thomas M. Dorman dated February 19, 2002 in Case No. 2000-498-B. LG&E does not object to disclosure of the confidential information, pursuant to a protective agreement, to intervenors and others with a legitimate interest in monitoring LG&E's fuel costs.

8. In accordance with the provisions of 807 KAR 5:001 Section 7, one copy of LG&E's response to the Commission's request with the confidential information highlighted and ten (10) copies of LG&E's response without the confidential information is herewith filed with the Commission.

WHEREFORE, Louisville Gas and Electric Company respectfully requests that the Commission grant confidential protection, or in the alternative, schedule an evidentiary hearing on all factual issues.

Respectfully submitted,



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COMPANY

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Petition for Confidential Protection was served on the following parties of record this 23 day of February, 2006, by mailing a copy thereof, postage prepaid, through the U.S. Mail to: Hon. Elizabeth E. Blackford, Assistant Attorney General, Utility and Rate Intervention Division, 1024 Capital Center Drive, Frankfort, KY 40601-8204 and Hon. Michael L. Kurtz, Boehm, Kurtz & Lowry, 2110 CBLD Center, 36 East Seventh Street, Cincinnati, OH 45202.



Counsel for
Louisville Gas and Electric Company

LOUISVILLE GAS AND ELECTRIC COMPANY

**Response to Commission Staff's Interrogatories and
Requests for Production of Documents Dated February 13, 2006**

Case No. 2005-00497

Question No. 3

Witness: Mike Dotson

- Q-3. Refer to Item 17 of the response to the December 27 Order. For the selected vendors only, provide the following information:
- a. Vendor name.
 - b. Starting date and length of contract.
 - c. Annual tonnage.
 - d. Base price.
- A-3. This information is being provided pursuant to a petition for confidential protection.